

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Midwestern Telecommunications, Inc.)	
)	CC Docket No. 00-257
Petition for Waiver of Section 64.1120(e))	
Of the Commission's Rules)	

To: Chief, Consumer and Governmental Affairs Bureau

PETITION FOR WAIVER – EXPEDITED ACTION REQUESTED

Pursuant to Sections 1.3 and 1.925 of the Commission's Rules, Midwestern Telecommunications, Inc. ("MTI") hereby respectfully requests that the Commission immediately grant a waiver of Section of 64.1120(e) of the Rules in order to allow MTI to begin providing local service to the customers of a competitive local exchange carrier whose assets are about to be acquired by MTI.

I BACKGROUND

MTI is an established provider of high quality local exchange services. The company has been providing service for over 6 years.

Five Star Phone Center (Five Star) provides resold local exchange service to customers located in and around Chicago, Illinois. Five Star is in default on monies owed to its underlying carrier, SBC/Ameritech. SBC/Ameritech has given Five Star until September 11, 2002 to make a payment or its (Five Star's) customers face immediate disconnection. Since Five Star is unable to make a payment, a rapid transfer of control is

necessary to avoid a break in service for the end users. Local Exchange service will be provided by MTI.

Under Section 64.1120(e) of the Commission's Rules, 47 CFR §64.1120(e), "[a] telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's authorization and verification...provided that the acquiring carrier complies with...[certain] procedures." Specifically, the acquiring carriers must file a letter with the Commission "[n]o later than 30 days before the planned transfer" in which such carrier is to set forth "the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier." In addition, "[n]o later than 30 days before the transfer of the affected subscribers...the acquiring carrier shall provide written notice to each affected subscriber" informing them of the transfer and providing such basic information as (1) the date of the transfer; (2) the rates, terms, and conditions of the service the subscriber will receive from the acquiring carrier; (3) the fact that the customer will not be charged for the transfer to the acquiring carrier; (4) the fact that the subscriber has the right to select another preferred carrier of carriers; (5) the fact that any PIC freezes the customer had in place will not survive the transfer and that the subscriber would have to arrange for the imposition of a new PIC freeze with the subscriber's local carrier; and (6) whether the acquiring carrier or the transferring carrier would handle complaints raised prior to the transfer. The acquiring carrier also had to provide a toll-free number for the affected customers to call if they had questions about the transfer.

Given that Five Star does not have the funds to pay SBC/Ameritech by September 12th as required to continue service, and given the intent of SBC/Ameritech to cut the service of Five Star's customers on September 13, 2002 if payment is not received, MTI will be unable to comply with the 30-day advance notification requirement of Section 64.1120(e) and still meet the goal of minimizing disruptions in the local service of customers. MTI therefore requests a waiver of this rule to enable it to effect a seamless transition of Five Star's customer base to MTI. Within ten (10) business from the closing of the transaction, MTI will send each affected customer a letter setting forth the information required by Section 64.1120(e).

II. GRANT OF THE INSTANT WAIVER PETITION ON AN EXPEDITED BASIS IS IN THE PUBLIC INTEREST.

Section 1.925(b)(3)(ii) of the Rules specifies that the Commission may grant a request for waiver if it is shown that "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative." Such circumstances clearly apply here. The rapidly approaching 'drop-dead' date set by SBC/Ameritech requires that MTI take these customers over before said date to avoid service disruptions to those customers. MTI cannot comply with this deadline while also complying with the 30-day advance notification requirement of Section 64.1120(e). Compliance with Section 64.1120(e) would significantly risk leaving Five Star's customers without local service during that 30-day period. Affected customer will not be harmed by grant of the requested waiver, as MTI will offer them services and rates that are identical to those that customers were receiving from Five Star. In addition, the affected customers will be advised shortly about the transfer and the

terms of service, and about their rights to switch to a different local exchange carrier if they so choose. Furthermore, customers will be given a toll-free number to call to obtain answers to any questions they may have.

Given the need for expedited action, the unique and unusual factual circumstances associated with this matter, and the lack of reasonable alternatives, MTI requests that the Commission grant the instant petition for waiver on an expedited basis.

Respectfully submitted,

Midwestern Telecommunications, Inc.

Jerry E. Holt
CEO

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September 20, 2002

CERTIFICATE OF SERVICE

I, Latisha Palmer, a secretary at Midwestern Telecommunications, Inc., do hereby certify that a true copy of the *Petition for Waiver-Expedited Action Requested* was sent this 10th day of September, 2002, by e-mail where indicated, and sent on September 11, 2002 by hand to the following:

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Latisha Palmer

* Via hand and e-mail

**Via hand